

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael Miskovski	Team: Squad #14	CCRB Case #: 202004012	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 05/29/2020 8:00 PM, Friday, 05/29/2020 8:30 PM	Location of Incident: Utica Avenue and Crown Street, 71st Precinct stationhouse	Precinct: 71	18 Mo. SOL 11/29/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 06/04/2020 8:20 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 06/04/2020 8:20 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Martin Cunningham	02100	946888	071 PCT
2. POM Andreas Sargent	24928	943785	071 PCT
3. POM Jason Schreckenstein	01340	956247	071 PCT
4. POF Breanna Depasquale	21026	963956	071 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Baratta	06591	950046	071 PCT
2. SGT John Kenny	05559	950674	071 PCT
3. POF Sarah Davittsweeney	00325	959577	071 PCT
4. POM Steven Ruiz	17388	946202	071 PCT
5. DT3 Anderson Thimote	02440	957399	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Martin Cunningham	Force: At Utica Avenue and Crown Street in Brooklyn, Sergeant Martin Cunningham used physical force against § 87(2)(b)	
B.POM Jason Schreckenstein	Force: At Utica Avenue and Crown Street in Brooklyn, Police Officer Jason Schreckenstein used physical force against § 87(2)(b)	
C.SGT Martin Cunningham	Discourtesy: At Utica Avenue and Crown Street in Brooklyn, Sergeant Martin Cunningham spoke discourteously to § 87(2)(b)	
D.SGT Martin Cunningham	Discourtesy: At Utica Avenue and Crown Street in Brooklyn, Sergeant Martin Cunningham spoke discourteously to § 87(2)(b)	
E.SGT Martin Cunningham	Off. Language: At Utica Avenue and Crown Street in Brooklyn, Sergeant Martin Cunningham made remarks to § 87(2)(b) based upon race.	

Officer(s)	Allegation	Investigator Recommendation
F.SGT Martin Cunningham	Discourtesy: At Utica Avenue and Crown Street in Brooklyn, Sergeant Martin Cunningham spoke discourteously to § 87(2)(b)	
G.POM Jason Schreckenstein	Force: At Utica Avenue and Crown Street in Brooklyn, Police Officer Jason Schreckenstein used physical force against § 87(2)(b)	
H.POM Jason Schreckenstein	Force: At Utica Avenue and Crown Street in Brooklyn, Police Officer Jason Schreckenstein used physical force against § 87(2)(b)	
I.POF Breanna Depasquale	Abuse: At the 71st Precinct stationhouse, Police Officer Breanna Depasquale did not obtain medical treatment for § 87(2)(b)	
J.POM Andreas Sargent	Force: At the 71st Precinct stationhouse, Police Officer Andreas Sargent used physical force against § 87(2)(b)	

Case Summary

On June 4, 2020, § 87(2)(b) a reporting non-witness, filed this complaint with the CCRB via the Call Processing System on behalf of her two daughters, 13-year-old § 87(2)(b) and 12-year-old § 87(2)(b) and their cousin, 13-year-old § 87(2)(b).

On May 29, 2020, at approximately 8:00 p.m., § 87(2)(b) § 87(2)(b) and § 87(2)(b) were walking with several friends near the intersection of Crown Avenue and Utica Avenue in Brooklyn. At the intersection, they ran into a rival group of friends and a physical fight broke out. Sergeant John Kenny, Police Officer Steven Ruiz, Police Officer Michael Baratta, Police Officer Anderson Thimote, Sergeant Martin Cunningham, Police Officer Andreas Sargent, Police Officer Jason Schreckenstein, Police Officer Breanna Depasquale, all of the 71st Precinct Anti-Crime Team, witnessed the fight from across the street. Sgt. Cunningham pushed § 87(2)(b) into the wall of a nearby building (**Allegation A: Force**, § 87(2)(g)). At the same time, PO Schreckenstein pushed § 87(2)(b) into a wall (**Allegation B: Force**, § 87(2)(g)).

Sgt. Cunningham addressed § 87(2)(b) and § 87(2)(b) and said their behavior was “fuckin dumb” and told § 87(2)(b) “Stop acting like an animal. Stop! Beating up one girl! Be quiet!” (**Allegations C- D: Discourtesy**, § 87(2)(g) **Allegation E: Offensive Language**, § 87(2)(g) **Allegation F: Discourtesy**, § 87(2)(g)).

Police Officer Sarah Davittsweeney and Police Officer Eric Ruiz, both of the 71st Precinct, arrived to transport the girls to the stationhouse for the preparation of juvenile reports. While walking § 87(2)(b) to the vehicle, PO Schreckenstein allegedly picked her up and threw her on the ground (**Allegation G: Force**, § 87(2)(g)). PO Schreckenstein then allegedly pushed § 87(2)(b) into the back of the vehicle inwards (**Allegation H: Force**, § 87(2)(g)).

At the 71st Precinct stationhouse, § 87(2)(b) allegedly asked PO Depasquale for medical attention, but PO Depasquale allegedly did not respond to the request (**Allegation I: Abuse of Authority**, § 87(2)(g)). PO Sargent allegedly pushed § 87(2)(b) into a chair in the juvenile room of the 71st Precinct stationhouse (**Allegation J: Force**, § 87(2)(g)). § 87(2)(b) § 87(2)(b) and § 87(2)(b) were released into the custody of their parents and guardians upon the completion of their juvenile reports.

The investigation received body-worn camera (BWC) footage from Sgt. Cunningham, PO Sargent, PO Schreckenstein, Sgt. Kenny, PO Depasquale, PO Davitt-Sweeny, and PO Eric Ruiz (**BR 01-08**). The investigation obtained cell phone video footage from § 87(2)(b) who recorded a portion of surveillance footage from § 87(2)(b) in Brooklyn. The relevant aspects of footage are discussed in further detail below.

Findings and Recommendations

Allegation (A) Force: At Utica Avenue and Crown Street in Brooklyn, Sergeant Martin Cunningham used physical force against § 87(2)(b)

Allegation (B) Force: At Utica Avenue and Crown Street in Brooklyn, Police Officer Jason Schreckenstein used physical force against § 87(2)(b)

§ 87(2)(b) stated that she, § 87(2)(b) § 87(2)(b) and three other unnamed friends walked to a corner store near Crown Avenue and Utica Avenue in Brooklyn (**BR 09**). A separate group of three girls approached § 87(2)(b)'s group and a physical fight ensued. When § 87(2)(b) turned to look around, she saw several plainclothes police officers running towards her group. The officers shouted, “Police, don’t move!” § 87(2)(b) saw Sgt. Cunningham and another officer grab § 87(2)(b) and push her against the wall of the nearest building. § 87(2)(b) yelled at the officers and told them to release her. The officers told her to stop resisting. § 87(2)(b) did not see § 87(2)(b) and believed that she had run away from the group. While she looked for her sister, § 87(2)(b) felt PO Schreckenstein and PO Thimote grab her by her arms. PO Thimote shouted at her to stop resisting and she tried to pull her arms away from PO Schreckenstein. PO Schreckenstein then released § 87(2)(b) and

shoved her against a wall with two hands on her back.

§ 87(2)(b) provided a statement consistent with § 87(2)(b) about the beginning of the fight and the approach of the officers (**BR 10**). When § 87(2)(b) saw the officers, she ran halfway down the street and turned around to see § 87(2)(b) pushed against a wall by Sgt. Cunningham and another unknown officer. The officers then handcuffed § 87(2)(b) and led her into a marked police vehicle. § 87(2)(b) ran back towards her friends, but an officer intercepted her, handcuffed her, and escorted her to a police vehicle. § 87(2)(b) did not see what happened to § 87(2)(b) and did not know if any officer used force against her.

§ 87(2)(b) and her guardian, § 87(2)(b) were uncooperative with the investigation (see IAs for contact attempts).

According to medical records § 87(2)(b) complained of being “unable to move her body from being body-slammed” (**BR 32**). She was diagnosed with acute pain in the neck and left shoulder and prescribed ibuprofen.

Sgt. Cunningham (**BR 11**) testified that he saw approximately five girls punching and kicking one girl on the ground. Sgt. Cunningham and the other officers ran toward the girls, shouting, “Stop, stop!” and they began to scatter and run away. Sgt. Cunningham grabbed § 87(2)(b) who was hitting the girl on the ground, by the arm as she ran approximately five feet toward a wall. § 87(2)(b) did not resist and Sgt. Cunningham handcuffed her and held her against the wall. Sgt. Cunningham denied forcefully pushing § 87(2)(b) against the wall when handcuffing her. Sgt. Cunningham denied ever seeing PO Schreckenstein pushing § 87(2)(b) against the wall during handcuffing.

PO Schreckenstein (**BR 12**) testified that he went after § 87(2)(b) and grabbed her because she was the closest to him. PO Schreckenstein was unsure if another officer had handcuffed her first and remembered that § 87(2)(b) screamed at the officers, challenging them to a fight, and jumped around. PO Schreckenstein denied pushing or slamming § 87(2)(b) into a wall at any point and did not see Sgt. Cunningham push § 87(2)(b) against a wall either.

Sgt. Cunningham’s BWC footage, contained in IA#83, shows his initial apprehension of § 87(2)(b) (**BR 01**). At 00:45, Sgt. Cunningham runs across Crown Street and Utica Avenue. § 87(2)(b) stands at the corner and appears to be hitting a girl on the ground. At 00:53, she looks up, notices Sgt. Cunningham, and runs away from him. At 00:54, Sgt. Cunningham grabs the back of her red hoodie and walks with her to a wall. Sgt. Cunningham has his radio in his left hand and holds onto her hoodie near her waist with his right hand, guiding her to the wall. Sgt. Cunningham does not otherwise push her into the wall. At 01:00, Sgt. Cunningham handcuffs § 87(2)(b). At the right corner of the frame, PO Thimote walks with § 87(2)(b) to where Sgt. Cunningham is standing. § 87(2)(b) jumps and screams at PO Thimote, who responds, “Stop, stop, stop.” At 01:12, § 87(2)(b) screams, “Don’t touch me!” PO Thimote walks her next to § 87(2)(b) and turns her against the wall and handcuffs her. PO Schreckenstein walks up and assists with the handcuffing for § 87(2)(b). At 01:26, § 87(2)(b) turns with her back against the wall. At 01:31, PO Thimote walks away, and PO Schreckenstein holds onto § 87(2)(b)’s arm and stands with her at the wall.

PO Schreckenstein’s BWC footage, contained in IA#87, starts with him running behind PO Thimote and Sgt. Cunningham (**BR 05**). At 00:16, Sgt. Cunningham grabs § 87(2)(b) and walks her to wall. PO Thimote approaches § 87(2)(b) who is running back towards the intersections after having ran down Utica Avenue. PO Thimote grabs her arm and walks with her to the wall. § 87(2)(b) jumps around but continues in the general direction toward § 87(2)(b) and Sgt. Cunningham. At 00:23, PO Thimote turns § 87(2)(b) against the wall by twisting her torso at her right shoulder and does the same to § 87(2)(b) by holding her right arm. At 00:31, PO Sargent approaches § 87(2)(b) and handcuffs her. At 00:38, PO Schreckenstein walks up and handcuffs § 87(2)(b) while PO Thimote holds her hoodie at her left shoulder. At 00:45, PO Schreckenstein finishes handcuffing § 87(2)(b) and she

turns around with her back against the wall. By 00:57, the three girls stand with their backs against the wall. When the sound begins, as PO Schreckenstein holds onto § 87(2)(b)'s right arm, she tells him, "Don't touch me. Word on your mother, I'll spit on your face. Do not touch me. I am like that." PO Schreckenstein never pushes § 87(2)(b) against the wall or shoves her, nor does any other officer.

§ 87(2)(b)'s cell phone recording § 87(2)(b) from 00:00 to 00:24, shows that § 87(2)(b)'s group argued with one girl. § 87(2)(b) then punches the girl in the face, and the other girls join in and start to hit, kick, and punch the victim. At 00:27, Sgt. Cunningham comes into view, grabs § 87(2)(b)'s jacket and directs her against a wall without pushing her.

A request for Threat, Resistance, and Injury (TRI) reports for § 87(2)(b) and § 87(2)(b) returned negative results (BR 21-23).

NYPD Patrol Guide Procedure 221-01 states that officers must use "only the reasonable force necessary to gain control or custody of a subject," (BR 27). NYPD Patrol Guide Procedure 221-02 instructs officers to "apply no more than the reasonable force necessary to gain control," (BR 30).

As shown in PO Cunningham's BWC footage and PO Schreckenstein's BWC footage, both § 87(2)(b) and § 87(2)(b) were not even present within the line of sight when Sgt. Cunningham placed § 87(2)(b) against the wall and only appeared after she was being handcuffed. § 87(2)(g)

Furthermore, the footage shows that Sgt. Cunningham did not use excessive physical force to place § 87(2)(b) against the wall, and instead used a minimal amount of guidance and redirection to have her stand against the wall. § 87(2)(g)

Furthermore, the BWC footage from Sgt. Cunningham and PO Schreckenstein showed that PO Thimote originally grabbed § 87(2)(b) and walked with her to the wall. PO Schreckenstein handcuffed § 87(2)(b) but did not push her into a wall, nor did any other officer, even when § 87(2)(b) was jumping, actively resisting, and screaming at the officers. § 87(2)(g)

Allegation (C): Discourtesy: At Utica Avenue and Crown Street in Brooklyn, Sergeant Martin Cunningham spoke discourteously to § 87(2)(b)

Allegation (D) Discourtesy: At Utica Avenue and Crown Street in Brooklyn, Sergeant Martin Cunningham spoke discourteously to § 87(2)(b)

Allegation (E) Offensive Language: At Utica Avenue and Crown Street in Brooklyn, Sergeant Martin Cunningham made remarks to § 87(2)(b) based upon race.

Allegation (F) Discourtesy: At Utica Avenue and Crown Street in Brooklyn, Sergeant Martin Cunningham spoke discourteously to § 87(2)(b)

Sgt. Cunningham's BWC footage, contained in IA#83, shows Sgt. Cunningham handcuff § 87(2)(b) at the 1:00 minute mark, and Sgt. Cunningham says, "Fucking dumb" as he does so. At 01:50, Sgt. Cunningham shouts at the girls, "Sit back and stop moving! Shut up!" § 87(2)(b) turns to Sgt. Cunningham and screams with her voice cracking, "Get them off of me!" Sgt. Cunningham responds, "Stop acting like an animal! Stop!" § 87(2)(b) retorts, "I'm not acting like no animal." Sgt. Cunningham replies, "Beating up one girl. Be quiet!" The three girls shout that they were not trying to beat anyone up and the original girl tried to stab them.

Sgt. Cunningham (BR 11) admitted to saying that girls' actions were "fucking dumb" and clarified that he did not mean any of the girls in particular but meant it as a general declaration. Sgt. Cunningham used the word "fucking" because he was tired and stressed at the chaotic situation of several girls assaulting another girl and there otherwise was no "rhyme or reason" for his comments

and that they came purely from shock and alarm.

Sgt. Cunningham also explained § 87(2)(b) kept challenging the officers to a fight and he told her to be quiet and stop acting like an “animal.” Sgt. Cunningham stated that § 87(2)(b) s behavior was animalistic to him, but he did not mean the word as a reference to her race.

Per the National Education Association (BR 43), the word animal has a history of dehumanizing people of color, and as such should be classified as offensive language when applied to a person.

NYPD Patrol Guide Section 200-02 (BR 24) states that the department is committed to treating every citizen with compassion, courtesy, professionalism, and respect. Officers are expected to maintain a higher standard of integrity than is generally expected of others.

As discussed in DAO-DCT Case Number 2017-17005 (BR 25), the NYPD has held that otherwise discourteous statements that are made when an officer is engaged in a stressful situation or trying to get a chaotic situation under control are not misconduct. However, the NYPD has circumscribed that exception to situations that are so chaotic that the immediate need to maintain order overrides the duty of courteous and professional behavior.

NYPD Patrol Guide Section 203-10 (BR 42) states that officers must not use discourteous or disrespectful remarks, especially “regarding another person’s ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability.”

As BWC showed that Sgt. Cunningham’s use of the word “fucking dumb” occurred during the moment he was handcuffing § 87(2)(b) § 87(2)(g) he made this statement in the heat of a stressful and chaotic situation that was only just beginning to be brought under control. § 87(2)(g)

However, offensive language, unlike discourteous language, contains no caveats or permissible uses, and the words are thus forbidden. § 87(2)(g)

Allegation (G) Force: At Utica Avenue and Crown Street in Brooklyn, Police Officer Jason Schreckenstein used physical force against § 87(2)(b)

§ 87(2)(b) testified that as PO Schreckenstein walked with her, § 87(2)(b) tried to twist her arm out of his grip. PO Schreckenstein lifted her by her arm, turned her sideways, and slammed her on the ground before lifting her up again and continuing to escort her to a police vehicle

§ 87(2)(b) stated that she never saw PO Schreckenstein slam § 87(2)(b) to the ground because she was not watching her sister when the officers escorted her to a vehicle (BR 10).

PO Schreckenstein testified he escorted § 87(2)(b) to a vehicle (BR 12) and held onto one of her arms. As they walked, § 87(2)(b) tried to jump out of his grasp, which caused her to fall toward the ground. PO Schreckenstein still held onto her elbow, so he was able to pick her up and help her stand, and denied ever picking her up and hitting her on the ground.

PO Depasquale, PO Sargent, PO Davittsweeney and Sgt. Cunningham did not see PO Schreckenstein ever slam § 87(2)(b) on the ground while escorting her to the vehicle (BR 11, 13-15).

BWC video footage clearly captures the moment of the allegation in PO Schreckenstein’s BWC footage contained in IA#87 (BR 05). At 05:30, PO Sargent, Sgt. Cunningham, and PO Schreckenstein each take § 87(2)(b) § 87(2)(b) and § 87(2)(b) away from the wall and toward the intersection. PO Schreckenstein holds onto § 87(2)(b) s left arm near the elbow. § 87(2)(b) appears calm and does not speak. Suddenly at 05:37, § 87(2)(b)

§ 87(2)(b) yells, “I did not! Get him off of me!” and twists her body and jumps forward. PO Schreckenstein continues to hold her left arm and she continues to shout, “Get the fuck off of me!” and falls forward, face-first to the ground. PO Schreckenstein grabs her arm with both hands and lifts her up, and they walk toward a marked police vehicle.

The BWC footage clearly shows that PO Schreckenstein did not lift § 87(2)(b) twist her body, and then hit her against the ground. PO Schreckenstein’s body language in the BWC, in addition to § 87(2)(b)s, showed that he did not cause her to fall, and rather, § 87(2)(b) fell on her own accord. § 87(2)(g)

Allegation (H) Force: At Utica Avenue and Crown Street in Brooklyn, Police Officer Jason Schreckenstein used physical force against § 87(2)(b)

§ 87(2)(b) stated that once PO Schreckenstein had lifted her off the ground, he walked her to the police vehicles (BR 09). PO Schreckenstein initially tried to put § 87(2)(b) into a vehicle by herself and pushed § 87(2)(b) with two hands on her back to try and get her inside. § 87(2)(b) who sat in another vehicle, shouted at PO Schreckenstein that § 87(2)(b) had to ride with her. PO Schreckenstein walked with § 87(2)(b) to this vehicle where § 87(2)(b) and § 87(2)(b) sat in the rear seat. PO Schreckenstein then shoved § 87(2)(b) into the back of the vehicle, which caused her to almost hit her head. In her follow-up statement to the interview, § 87(2)(b) stated that PO Schreckenstein had shoved her into the first vehicle, causing her to fall on her neck and hurt it (BR 26).

§ 87(2)(b) stated that she saw PO Schreckenstein place § 87(2)(b) in a separate police vehicle (BR 10). § 87(2)(b) yelled at the officers to place § 87(2)(b) into the same vehicle as herself. PO Schreckenstein walked § 87(2)(b) over to § 87(2)(b) and § 87(2)(b) and shoved § 87(2)(b) with two hands on her back into the vehicle.

PO Schreckenstein stated that there was no trouble placing § 87(2)(b) into the police vehicle (BR 12). PO Schreckenstein could not remember if there were any other of the girls inside of the vehicle that he tried to place her into. § 87(2)(b) entered the police vehicle on her own volition and he did not push her into the vehicle.

Neither Sgt. Cunningham, PO Davittsweeney, PO Sargent, nor PO Depasquale ever saw PO Schreckenstein shove § 87(2)(b) into any vehicle (BR 11, 13-15).

BWC footage clearly shows § 87(2)(b)s entry into the vehicle. In PO Schreckenstein’s BWC footage, located in IA #87, shows that after PO Schreckenstein lifts § 87(2)(b) at 05:43, he walks her towards a marked police vehicle (BR 05). § 87(2)(b) screams with her voice cracking, “Get off of me. Get the fuck off of me!” At 05:45, PO Schreckenstein walks her toward PO Depasquale and they each take her right and left arm respectively and walk her towards the rear of the vehicle. They stand in line behind § 87(2)(b). PO Thimote walks § 87(2)(b) to stand at the rear of the vehicle. § 87(2)(b) screams that she did nothing to the other girl. PO Depasquale tells § 87(2)(b) to relax while PO Thimote walks away. At 06:10, they approach the vehicle and § 87(2)(b) tells them that § 87(2)(b) has to come with them. PO Depasquale holds § 87(2)(b) by her shoulder and directs her into the vehicle. At 06:21, PO Depasquale grabs § 87(2)(b)s arm and walks her to the door as she was next in line. At 06:30, § 87(2)(b) shouts that § 87(2)(b) is her cousin and has to come with them. § 87(2)(b) tries to enter but PO Depasquale hold her back and tells her to stop moving. The girls argue with PO Depasquale. At 06:52, PO Depasquale says, “Alright get in.” § 87(2)(b) then walks into the vehicle. At 06:56, PO Schreckenstein closes the door.

As shown, the BWC footage demonstrates that PO Schreckenstein led § 87(2)(b) to only one vehicle and did not shove her inside it. Further, it shows that § 87(2)(b) walked

into the vehicle of her own volition. § 87(2)(g)

Allegation (I) Abuse of Authority: At the 71st Precinct Stationhouse, Police Officer Breanna Depasquale did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) stated that PO Davittsweeney and PO Ruiz transported the girls to the stationhouse (BR 09). At some point, § 87(2)(b) asked PO Depasquale for medical assistance, saying, “Can I have medical assistance?” and explaining that her foot hurt and was possibly sprained. PO Depasquale replied that they would get her medical assistance, but no assistance ever came.

§ 87(2)(b) (BR 10) noted that once they arrived at the stationhouse, § 87(2)(b) told PO Davittsweeney to not step on her toes because they hurt. PO Davittsweeney did not respond to § 87(2)(b)'s request.

As previously referenced, § 87(2)(b) and her guardian, § 87(2)(b) were uncooperative with the investigation (see IAs for contact attempts).

PO Davittsweeney's BWC footage, contained in IA #88, shows that they arrived at the stationhouse at 06:05 (BR 06). When PO Davittsweeney reaches the rear of the vehicle to escort the girls, at 06:31, § 87(2)(b) tells PO Davittsweeney that her finger is fractured and her handcuffs are hurting it. PO Davittsweeney responds that the officers will get her medical assistance. § 87(2)(b) adds, “Yeah her § 87(2)(b) toes is broken.” PO Davittsweeney first escorts § 87(2)(b) into the stationhouse and returns to the vehicle for § 87(2)(b). At 09:30, § 87(2)(b) tells PO Davittsweeney that her finger is broken and the handcuffs need to be taken off her wrists. PO Davittsweeney responds that they have to finish processing before they can remove the handcuffs. Finally at 17:50, PO Depasquale takes § 87(2)(b)'s information. At 18:33, PO Depasquale asks, “Those are the shoes you have on?” § 87(2)(b) explains, “Yeah because my toe is broken and my finger is fractured. PO Depasquale tells her, “Alright...I'm going to talk to you soon.” PO Davittsweeney then walks with § 87(2)(b) to the juvenile room and turns off her BWC.

PO Depasquale's BWC footage, contained in IA#85, shows § 87(2)(b)'s processing from a different angle (BR 03). At 21:44, once all the other girls have been processed and taken to the juvenile room, PO Depasquale begins the processing of § 87(2)(b). At 22:35, PO Depasquale asks § 87(2)(b) about the shoes she is wearing and § 87(2)(b) responds that she is wearing such shoes because her toe is fractured.

PO Schreckenstein's BWC footage, located in IA #87, provides the best view of § 87(2)(b)'s shoes (BR 05). At the end of his footage, PO Schreckenstein stands in the juvenile room and organizes the girl onto the benches and chairs. At 23:38, § 87(2)(b) walks into the room and dances. At 23:43, the camera pans to the floor and shows that she wears a laced sneaker on her left foot and wears an open-toed slide-sandal over a sock on her right foot.

PO Davittsweeney testified that she did not independently recall seeing any visible injuries on § 87(2)(b) (BR 13). PO Davittsweeney was solely responsible for transporting the three girls to the stationhouse and was not the arresting officer. PO Davittsweeney recalled that one of the apprehended girls complained that her foot or finger was hurting, a but did not recall § 87(2)(b) stating that her finger or toe was broken. PO Davittsweeney noted that officers normally call for an ambulance after a civilian's processing if the injuries are not serious; to do so was the primary responsibility of the arresting officer. PO Davittsweeney did not call an ambulance herself, nor did she inform any officer to call an ambulance and brought the girls to the desk for processing. When shown her BWC footage, PO Davittsweeney testified that it did not refresh her memory of the incident. PO Davittsweeney did not follow up to see if § 87(2)(b) received medical attention, and returned to patrol.

PO Depasquale testified that she was the processing officer, charged with gathering the girls' information at the stationhouse to file juvenile reports (BR 15). PO Depasquale remembered § 87(2)(b) explaining that she had a broken bone but could not recall more. PO Depasquale was confused because she did not witness any officer use force on any of the girls that would have caused a broken bone. PO Depasquale noted that § 87(2)(b) walked without issue and had no visible injury and PO Depasquale thus believed that the injury was not recent. § 87(2)(b) never requested medical attention from PO Depasquale to her memory. PO Depasquale noted that if a bone had been broken during the incident, it would have been mandatory to call the ambulance. Once § 87(2)(b) entered the juvenile room, PO Depasquale saw her start dancing, despite her claims of her injury. PO Depasquale informed § 87(2)(b)'s guardian that she had claimed a broken bone. § 87(2)(b) never asked PO Depasquale specifically for medical attention.

The Command Log for May 29, 2020 from the 71st Precinct shows § 87(2)(b)'s entry (BR 28). PO Depasquale logged her in at 08:44 p.m., and her aunt retrieved her at 11:03 p.m. The Command Log shows that no ambulance was called for § 87(2)(b) and further notes that her physical condition is "A/N [Apparently Normal]."

NYPD Patrol Guide Procedure 208-03 instructs officers that the arresting officer is required to observe the physical condition of all prisoners entering the command and ensure that prisoners obtain medical attention if they appear to be injured (BR 29).

From the available BWC footage, though § 87(2)(b) complained of having a broken toe and broken finger, § 87(2)(b) was not shown making a specific request for medical attention for her toe or her finger. Furthermore, since § 87(2)(b) wore a different shoe on each foot, one of which was an open-toed slide-sandal, in a fashion consistent with how people may wear shoes when they have broken toes, it was not unreasonable for officers to assume that § 87(2)(b)'s broken toe was a prior injury that she was making them aware of. While PO Davittsweeney told § 87(2)(b) that they would get her medical attention, she was also correct in her assessment that this was the duty of the arresting officer; which in this case, was PO Depasquale. Therefore, since § 87(2)(b) did not specifically request medical attention from PO Davittsweeney, since the broken finger and broken toe she mentioned did not appear fresh or to otherwise affect her movement, and since PO Davittsweeney correctly believed that it was the duty of the arresting officer, § 87(2)(g)

§ 87(2)(b). Furthermore, the BWC footage shows that during § 87(2)(b)'s processing, all the other girls had been taken to the juvenile room. Thus, § 87(2)(b) could not have heard § 87(2)(b) request medical attention during her processing. However, the command log established that the girls were at the stationhouse for over an hour. Therefore, there could have been time when § 87(2)(b) did explicitly request medical attention that is not covered in the extant footage. § 87(2)(g)

Allegation (J) Force: At the 71st Precinct Stationhouse, Police Officer Andreas Sargent used physical force against § 87(2)(b)

§ 87(2)(b) stated that once the girls were processed they were directed into the juvenile room of the precinct (BR 09). PO Schreckenstein and PO Sargent led the girls into the back room where there were only chairs and benches. Once they entered, PO Sargent pushed § 87(2)(b) with one hand on her back into one of the chairs. § 87(2)(b) was able to catch herself and regained her balance and the officers handcuffed her to a chain. She waited with § 87(2)(b) until their father arrived at the stationhouse and took them home.

§ 87(2)(b) (BR 10) stated that in the juvenile room, there were three open chairs and four chairs that were occupied by other girls. PO Sargent told § 87(2)(b) to sit in one of the chairs and pushed her with two hands on her back into the chair. § 87(2)(b) did not fall from

the push and instead turned and sat down, where they waited until their father picked them up.

PO Sargent testified that he did not recall taking any of the girls into the juvenile room (**BR 14**) and denied ever pushing any of the girls into a chair.

PO Schreckenstein could not recall the events at the stationhouse with detail (**BR 12**). He believed that he supervised the girls in the juvenile room but could not recall anything further.

PO Depasquale stated that § 87(2)(b) was disruptive during her processing (**BR 15**) and kept challenging the officers to a fight. Sargent escorted § 87(2)(b) into the juvenile room. However, when PO Sargent tried to walk, § 87(2)(b) tried to twist away from PO Sargent and jumped away from him. PO Sargent then picked § 87(2)(b) up in a bear-hug type of motion and walked with her into the juvenile room. PO Depasquale could not see into the juvenile room from where she stood at the desk; therefore, she could not see if anything happened once PO Sargent and § 87(2)(b) entered the room.

The BWC footage captures this aspect of the incident across three videos from three officers: PO Depasquale, PO Sargent and PO Schreckenstein. PO Depasquale's BWC footage, contained in IA#85, shows that § 87(2)(b) continued to yell while waiting in line for her processing (**BR 03**). At 16:44, PO Depasquale begins her processing at the desk. § 87(2)(b) tells PO Depasquale that she does not want to provide her information. At 18:24, PO Depasquale tells PO Sargent to take § 87(2)(b) to the back room. As PO Depasquale moves to touch § 87(2)(b)'s arm, the latter jerks her arm away and jumps back from PO Depasquale. PO Sargent walks toward her, but § 87(2)(b) backs away from him and says, "Do not touch me." PO Sargent grabs her arm and walks with her toward the juvenile room. PO Depasquale turns away from them. § 87(2)(b) shouts "No!" while the other girls shout at her to stop and calm down. At 18:31, there is a brief glimpse of PO Sargent holding § 87(2)(b) in a bear hug and walking with her toward the juvenile room.

PO Sargent's BWC footage, contained in IA #90, shows the second part from a limited angle (**BR 08**). At 07:12, PO Depasquale tells PO Sargent to take § 87(2)(b) to the juvenile room. As he approaches her, she backs away from him and he grabs her left arm and walks with her toward the room. § 87(2)(b) shouts, "No! You're touching me," and leans down off the frame. PO Sargent bends and the camera goes dark, presumably from something too close to it. The camera continues to be dark as PO Sargent can be heard walking. § 87(2)(b) says, "Yo this is funny." At 07:28, the footage is visible again and § 87(2)(b) stands in the juvenile room laughing. She says, "What was I supposed to say? That shit was [kisses three times at PO Sargent] muffin." The other girls in the room laugh. Another officer grabs § 87(2)(b)'s arm and PO Sargent walks away.

PO Schreckenstein's BWC footage, contained in IA #87, captures the end of PO Sargent's interaction with § 87(2)(b) from another angle (**BR 05**). At 19:03, PO Schreckenstein stands with a girl in the juvenile room with several empty chairs and other chairs occupied with sitting girls. From the right side of the frame, PO Sargent walks in carrying § 87(2)(b) in a bear-hug fashion and sets her on the ground, standing. She makes the same statement and kissing gesture as previously referenced. Another officer grabs § 87(2)(b)'s arm and PO Sargent walks away. PO Schreckenstein tells her that it is not funny. § 87(2)(b) turns and says, "I never said it was funny. I don't even like him [PO Schreckenstein] because he's the cop in here." They continue to stand around. § 87(2)(b) tells the officers that she will say they committed sexual harassment. They continue to stand around while the girls state that they did nothing wrong. At 20:08, the officer holding § 87(2)(b) says, "There," and releases her arm. At 20:12, he removes her handcuffs. At 20:30, a second officer holding the chain shackles tells her to sit and she does so without anyone touching her. The second officer attaches the chain to her wrists and finishes at 20:55.

NYPD Patrol Guide Procedure 221-01 states that officers must use "only the reasonable force necessary to gain control or custody of a subject," (**BR 27**). It further adds that, "In determining whether the use of force is reasonable, members of the service should consider the

following: nature and severity of the crime/circumstances; actions taken by the subject; duration of the action; immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders; whether the subject is actively resisting custody; whether the subject is attempting to evade arrest by flight; number of subjects in comparison to the number of MOS; size, age, and condition of the subject in comparison to the MOS; subject's violent history; presence of hostile crowd; subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence." NYPD Patrol Guide Procedure 221-02 instructs officers to "apply no more than the reasonable force necessary to gain control" (BR 30).

As shown in the BWC footage, neither PO Sargent nor any other officer pushed § 87(2)(b) into a chair in the juvenile room, and she sat on her own accord. However, the footage showed that PO Sargent lifted § 87(2)(b) and carried her into the juvenile room, which, though light, was a use of force for police action. The footage showed that § 87(2)(b) was resisting the officers and causing disruptions during her processing and removal to the juvenile room. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) § 87(2)(b) § 87(2)(b) and § 87(2)(b) have been parties (BR 33-35, 40).
- Sgt. Cunningham has been a member of service for 13 years and has been a subject in seven CCRB complaints and 17 allegations, of which one was substantiated:
 - 201404897 involved a substantiated allegation of a question against Sgt. Cunningham. The Board recommended Formalized Training and the NYPD imposed Formalized Training.
 - § 87(2)(g)
- PO Schreckenstein has been a member of service for eight years and has been a subject in three CCRB complaints and 11 allegations, none of which were substantiated.
 - § 87(2)(g)
- PO Depasquale has been a member of service for four years and has been a subject in two CCRB complaints and four allegations. None of which were substantiated.
 - § 87(2)(g)
- PO Sargent has been a member of service for 15 years and has been a subject in five CCRB complaints and 13 allegations, of which two were substantiated:
 - 201703055 involved substantiated allegations of gun pointed and a stop against PO Sargent. The Board recommended No Disciplinary Action (IAB DUPLICATE) and the NYPD did not impose a penalty.
 - § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of March 1, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (BR 36).

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Squad: 3

Investigator: Michael Miskovski Inv. Michael Miskovski 03/15/2022
Signature Print Title & Name Date

Squad Leader: Cassandra Fenkel IM Cassandra Fenkel 03/18/2022
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date